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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE LOPEZ,

Defendant and Appellant.

B233371

(Los Angeles County
Super. Ct. No. VA115438)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Michael L. Schuur, Judge. Affirmed.

A. William Bartz, Jr., under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Jose Lopez appeals from the judgment entered following his guilty plea to two counts of committing a forcible lewd act upon a child under the age of 14. (Pen. Code, § 288, subd. (b)(1).) Pursuant to the plea agreement, he was sentenced to 16 years in state prison. We affirm.

FACTUAL AND PROCEDURAL HISTORY

The following evidence was presented at the preliminary hearing. The victims of defendant's acts were his stepdaughters, V. and C. V., who was 15 at the time of the hearing, testified that defendant touched her inappropriately twice. These acts took place when she lived in an apartment on State Street. The family moved from that apartment when she was 10 or 11. Once, he kissed her on the lips while they were parked in a car and, on another occasion, he lifted her shirt and rubbed her breasts. V. admitted she told the investigating officer that defendant had touched her at other times, but claimed she did not tell him the truth.

The investigating officer, Carlos Fernandez, testified that he interviewed C. and V. C. told Fernandez about four incidents. She said that when she was seven or eight years old, defendant (1) touched her vagina over her clothing while she was sitting on his lap, (2) kissed her on the mouth while he exposed his penis, whereupon she masturbated him, (3) took off his clothing, got into the shower with her and licked her vagina, and (4) called her into his bedroom, took her pants off, and tried to place his penis in her vagina. She was not sure whether he was successful. C. said defendant touched her vagina many times. While Fernandez listened, C. called defendant and told him she was going to be interviewed by police. Defendant told C. to lie, explaining that if she told the truth her mother would be deported and the children would be separated from her. V. told Fernandez that on different occasions, (1) defendant kissed her on the mouth while they were parked in a car, (2) pulled down her pants and touched her vagina, and (3) grabbed her hand, put it on his penis, and rubbed her hand against it. V. said defendant touched her vagina a couple of times.

On April 25, 2011, defendant entered his guilty plea. On May 19, defendant filed the instant appeal, alleging the court erroneously denied his Penal Code section 995 motion and his sentence failed to pass constitutional muster. On the following day, the trial court issued a certificate of probable cause.

DISCUSSION

After reviewing the record, defendant's appointed counsel filed an opening brief and requested that this court independently review the record for appellate issues pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Counsel filed a declaration stating that he had sent defendant a letter advising him of the nature of the brief and a copy of the record. Counsel informed defendant that he could file a supplemental brief.

On November 2, 2011, we denied defendant's request for the appointment of new counsel and granted his request for an extension of time to file his supplemental brief. On December 12, we received defendant's timely supplemental brief; however, it was written almost entirely in Spanish. On December 28, we received what appears to be a translation of defendant's supplemental brief from an unknown source. We will address the claims presented.

First, defendant asks that we reconsider the sentence that was imposed. Defendant cannot challenge the sentence that he agreed to accept as part of a plea bargain. (See *People v. Couch* (1996) 48 Cal.App.4th 1053, 1056.)

Second, he claims his attorney lied to him to coerce a plea. Defendant asserts he was told that if he was convicted after a trial he would receive a sentence of 60 years. If true, counsel did not mislead defendant. Defendant was charged with eight counts of violating Penal Code section 288, subdivision (b)(1). In addition, the information alleged, as to each count, that the crimes involved multiple victims within the meaning of Penal Code section 667.61, subdivision (b). That allegation carries a sentence of 15 years to life. If anything, counsel underestimated the potential sentence defendant faced.

Third, defendant contends there is insufficient evidence that he used force to accomplish his acts of molestation. A sufficiency of the evidence claim is not reviewable on appeal following a guilty plea. (*People v. Meals* (1975) 49 Cal.App.3d 702, 706.)

Fourth, he urges his rights under *Miranda v. Arizona* (1966) 384 U.S. 436 were violated. Defendant's guilty plea makes it unnecessary to consider whether his statements to police were admissible. (*People v. Grand* (1971) 16 Cal.App.3d 27, 34-35.)

Finally, defendant complains that C. was not subjected to cross-examination and her hearsay statements were presented at the preliminary hearing. C.'s statements were presented through the testimony of a law enforcement officer, Detective Fernandez. Such testimony is authorized under Penal Code section 872, subdivision (b).

We have independently reviewed the record. We are satisfied that no arguable issues exist and that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our independent review of the record, received effective appellate review of the judgment entered against him. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-279; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

DISPOSITION

The judgment is affirmed.

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SUZUKAWA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.